IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 11TH JULY, 2007 / 20TH ASHADHA, 1929

WP(C).No. 20462 of 2007(J)

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PETITIONER:

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P.D. DEVACHAN, AGED 42 YEARS,
S/O. DEVASSY, PADAYATTI HOUSE, EAST CHERANELLOOR,
ERNAKULAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENT:

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THE GEOLOGIST,
MINING AND GEOLOGY, DISTRICT OFFICE,
COLLECTORATE, KAKKANAD P.O., ERNAKULAM DISTRICT.

BY SR.GOVT. PLEADER SRI.BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**S. SIRI JAGAN, J.**

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**WP(C) NO. 20462 OF 2007 - J**

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**Dated this the 11th day of July, 2007**

**J U D G M E N T**

The petitioner sought to apply for a dealer's licence for stocking and selling of sand in various parts of Ernakulam District. He is not being supplied with application form and countersigned chalan, is the grievance of the petitioner. By Ext.P3, he has been informed that in the meeting held on 18.9.2006, in the presence of Minister for Home and Revenue, it was decided to restrict the issue of licence from Mining and Geology Department. On the strength of Ext.P4 which is stated to be the copy of the minutes of the said meeting, the petitioner would submit that no such decision is taken in that meeting. The petitioner therefore seeks the following reliefs:-

> "1. Call for the records relating to Ext.P3, issue a writ of certiorari and quash the same.
> 2. Issue a writ of mandamus directing

the respondent to consider the application submitted by the petitioner for granting dealers licence to him for stocking and selling of sand for the year 2007-2008 in accordance with the provisions contained in the Kerala Minor Mineral Concession Rules 1967 without going by the dictation of his superiors.

3. Issue a writ of mandamus directing the respondent to issue dealers licence to the petitioner if he is entitled for the same under the Kerala Minor Mineral Concession Rule 1967.

4. Issue such other reliefs this Honourable Court may deem fit and proper including the cost of this proceedings."

2. The learned Government Pleader would submit that in view of the increase in the illegal mining activities of river sand in Ernakulam District, a proposal has been made to restrict the issue of licence and that is why the petitioner's application is not being considered.

3. The issue of licence and consideration of application for licence are two different aspects. Every citizen has a right to apply for a licence to deal in sand and he has got a right to get his application considered

in accordance with the law as on the date of consideration of his application. Certainly, if there is a law which authorises the respondent to restrict issue of licence, certainly he can resort to such provision of law, but the respondent is bound to consider the application and pass an order in accordance with the law as it exists on the date of the order. The petitioner submits that he has not even been supplied with the application form and countersigned chalan for payment of the application fee.

4. In the above circumstances, the writ petition is disposed of with the following directions:-

The respondent shall issue an application form and a countersigned chalan to the petitioner to enable him to file an application for licence by paying the requisite fee. On receipt of the same, the respondent shall consider the application in accordance with the law as it exists on the date of disposal of the application as expeditiously as possible, at any rate within a period of one month from the date of receipt of

the application form and countersigned chalan which shall be issued to the petitioner within one week from the date when he makes a request for the same.

The writ petition is disposed of as above.

**S. SIRI JAGAN,**
**Judge**

Mbs/

**S.SIRI JAGAN, J**

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W.P.(C) NO. OF 2001

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J U D G M E N T

DATED:01-06-2007